DOCUMENT RESUME

ED 279 051 CS 505 523

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TITLE The Pornography Controversy: Issues, Effects Research, and First Amendment Rights.
PUB DATE 14 Nov 86
NOTE 25p.; Paper presented at the Annual Meeting of the Speech Communication Association (72nd, Chicago, IL, November 13-16, 1986).
PUB TYPE Speeches/Conference Papers (150) -- Information Analyses (070)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS *Censorship; Constitutional Law; Court Litigation; *Freedom of Speech; *Mass Media Effects; *Media Research; Obscenity; *Pornography; Sexuality
IDENTIFIERS Meese Commission on Pornography; Miller v California

ABSTRACT

Advances in media technology, specifically the videotape industry, have made pornography widely available. Opponents of pornography include religious groups, law enforcement officers, some politicians, and some feminists. A distinction is made between eroticism (occurring between consenting participants) and pornography (signifying overt or covert coercion). Research on the effects of eroticism and pornography reveals that (1) observed erotic behavior may elicit sexual reactions but does not heighten aggression; (2) observed sexual aggression may evoke aggression-facilitating responses; (3) when erotica and pornography both have unpleasant or extravagant content, they are equal in their effect on the aggression levels of viewers; (4) the effects of modeled sexual assaults are strongly influenced by how the victims' reactions are portrayed; (5) massive exposure to pornography alters sexual standards and attitudes toward women, but decreases aggression; and (6) individual predispositions are a major factor in determining the effects of pornography on individuals. The First Amendment protects free speech regardless of content, yet in the 1973 "Miller vs. California" the Supreme Court decision ruled that a work is obscene based on the standard of whether the average person would find that the material appeals to prurient interest. The Miller standard has assisted local communities in applying enforcement of morality among its citizens. In 1986, the Meese Commission on Obscenity and Pornography claimed that pornography is not speech and therefore does not fall under constitutional protection. If pornography is interpreted as real action rather than expressive speech and if causality between pornography and sex crimes can be proven, pornography could be denied constitutional protection. (Fifty-two references are listed.) (SRT)

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THE PORNOGRAPHY CONTROVERSY
ISSUES, EFFECTS RESEARCH, AND FIRST AMENDMENT RIGHTS

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Presented at the
Speech Communication Association
Chicago
November 14, 1986

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THE PORNOGRAPHY CONTROVERSY
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Social concern regarding sexual content in media seems to intensify whenever a relatively rapid increase in its availability occurs, and this is usually associated with new technological development. Moral outcry in response to what is considered pornographic often includes references to its harmful effects, thus academic studies regarding the persuasiveness of pornographic materials receive unusual public attention. The next step in the series of interrelationships is often an attempt to regulate or censor the offensive materials, thus bringing to the fore the question: What is the role of the state in enforcing the morality of its citizens? The Meese Commission's 1986 report is not the first of its kind nor are the subsequent fears of censorship. Materials perceived as pornographic have always brought out the tension between the pursuit of individual liberty and the quest for Puritan righteousness.

This paper presents the social issues, a review of the effects research, and an overview of the constitutional protections regarding the 1986 controversy over pornography. Some background gives us insight into the more general issue of morality and censorship.

Background

Garth Jowett (1976) has an extensive treatment of motion picture censorship in Film: The Democratic Art. He tells of an early Edison Kinetoscope that was censored in 1894 because the Spanish dancer Carmencita displayed her ankles. In People v. Doris, it was ruled that the film was "an outrage upon public decency." (p. 109). In Chicago, a city ordinance passed in 1907 was later upheld by the U.S. Supreme Court to require permits before movies could be shown in the nickelodeons. Other cities, such as New York, attempted similar actions due to the concerns of religious and political activists over motion picture shows creating "degeneracy." By 1929, 100 cities had provided local censorship boards or officials to regulate motion picture houses. Although there was no evidence of the effects of media on human behavior, one of the underlying beliefs of the people, including the judges who upheld censorship, was that movies had a "capacity for evil"(p. 121).

The Hays Office, headed by Will H. Hays from 1922 to 1933 for the Motion Picture Producers and Distributors of America (MPPDA), set the standards for self-regulation of motion pictures rather than legal censorship. During this period, sound was introduced in 1926, prompting Raymond Moley to write in behalf of the Hays Office, "Execrable girl-and-music shows, heretofore seen only by the out-of-towner on an occasional trip to New York, were being brought by the the talkies to every hamlet." (Jowett, 1976, p. 238). 1930 saw the introduction of the Motion Picture Production Code, known as the "Hays Code" to regulate motion picture content.

One year earlier, in 1929, a four-year project began that was the first comprehensive body of research on the effects of films. Twelve studies, conducted by a number of sociologists and psychologists and sponsored by the U.S. Motion Picture Research Council and the Payne Fund, were the first systematic attempts to use experimental techniques to determine the effects of commercial films on specific attitudes and behavior, particularly in the case of children and adolescents. The most striking feature of the studies was that individual demographic differences determined individual responses. No sweeping generalizations could be made about the persuasiveness of the films, but conclusions about the retention of information were demonstrable. One of the studies by H. Blumer cautiously suggested that children imitated the actions of movie stars. Jowett (1976) suggests that the publication of the Payne Fund Study had a catalytic effect on the Hays office and stricter enforcement of self-regulation. He also notes that women's groups organized in response to the studies to form the Film Estimate Board of National Organizations, which included the P.T.A., the General Federation of Women's Clubs, the Daughters of the American Revolution, and several religious groups.

The Payne Fund Study is important because it was not until 1972 with the appearance of the Surgeon General's Report on Television and Behavior that such comprehensive studies of media effects were conducted. This was followed by the 1982 report by the National Institute of Mental Health to assess the newer studies on television and behavior done between 1972 and 1982. Research in this area continues to be a major focus of

communication scholars and psychologists. Television increased the availability of models, especially violent ones, for imitation, to the American public, thus the cycle of technological advancement, public outcry, government investigation, academic study, and regulation began again.

A 1970 U.S. Commission on Obscenity and Pornography that had been appointed by President Lyndon B. Johnson in 1968 published its findings in 1971. Nine volumes of reports describing the research sponsored by this group made up the first major body of research on the effects of pornography and behavior. Prior to the appearance of this report, research about the effects of pornography had been limited to a few scattered studies. After reviewing the research available at the time, the 1970 Commission concluded that pornography either has no effect on subsequent behavior or that it is associated with a temporary increase in the likelihood that observers will express themselves sexually in whatever manner they normally do. Furthermore, it said, "It is not possible to conclude that erotic material is a significant cause of sex crime," and "If a case is to be made against 'pornography' in 1970, it will have to be made on grounds other than demonstrated effects of a damaging personal or social nature." (p. 287)

Changes in the availability of pornography and social criticisms of it have rekindled researchers' interests in this topic. There is a relatively large body of research on pornography and its effects available today. Both the pornography industry and research about pornography have expanded as have efforts by local and federal groups to curtail

pornography. The remainder of this paper discusses the situation as it presently exists.

Pornography And The Issues

Today, advances in media technology, specifically in the videotape industry, are responsible for bringing enormous quanities of pornography into American homes. A panel that was made up of two pornography film producers, a director, the owner of the Pussycat movie theater chain, and their ACLU lawyer presented information about the adult film industry at the 1985 conference of the University Film and Video Association. They said that 65% of the revenue in the pornographic film business comes from videotape sales. A pornographic film costs about $100,000 to make, and seven million pornographic video cassettes are sold each year for about $35 apiece. In fact, sexually explicit videocassettes account for 15 to 25 per cent of total sales (Brown, 1986). In addition, movie box office revenue brings in $7.5 million/year. Cable systems with adult channels add to the pornography proliferation. The Playboy channel is subscribed to in 800,000 homes. In addition, there are magazines, books, telephone "Dial-A-Porn," and even a computer subscription called "Sextex" that offers live conversations, pre-recorded messages, and open lines for users to communicate with other users. Pornography is a multibillion dollar business in mainstream America. The time when a person could grow into adulthood without seeing explicit sexual images in the media is past.

As a result of the nationwide availability of pornography, a controversy among several groups is raging. Sincere

disagreement among decent people is prevalent. Basically, those who oppose pornography are certain religious groups, law enforcement officers, some politicians, and some feminists.

Feminists, in particular, object to today's pornography because it depicts violent aggression against women. Publicity about pornography has given people who have seen little or no pornography "knowledge" about its content. It is commonly believed that pornography's content is graphically sexual, anti-female with considerable aggression and ugly violence used against women, and supportive of rape myths. One common portrayal of sexual violence that is said to be prevalent shows a woman resisting rape at first, but gradually becoming passionate because of it. Another frequently discussed type of film is the "snuff" film which is supposed to depict an actual murder of a woman on screen. One study suggests that it may be a misconception on the part of the public that pornography is more violent than other types of film.

T. S. Palys (1986) conducted a content analysis of 150 sexually-oriented home videotapes for three types of content: sexually explicit, aggressive, and sexually aggressive. Some (92) of the films were triple-X rated (pornography) and some (58) were single-X rated (adult). Palys rented the videotapes from various video outlets in Vancouver, a locale which he describes as the "pornography capital of Canada." He selected his choices from catalogues, using words such as "nasty" and "captive" as guides for selection, and from video establishments with reputations for renting violent materials. The films were produced between 1961 and 1984, but the modal year of release

was 1982. 111 (89%) were produced in the United States; 5 (4%) in Canada; and 9 (7%) in Europe. Twenty-five of the films did not have production information. The results showed that the number of scenes coded for sexual content were about the same in both single-X and triple-X films, but that the triple-X films had more explicit sex scenes. The nature of the sexual depictions, however, was that the triple-X films had a higher frequency (72%) of egalitarian sexual depictions than did the single-X films (48%). Scenes with aggression were more prevalent in the single-X films (23%) than in the triple-X films (9%). Scenes of sexual aggression, however, were closer in count: single-X (88%); triple-X (80%). There were more rape scenes in the triple-X films (30%) than in the single-X films (22%). Palys suggests that pornography films (triple-X) should not be singled out as the only ones that contain acts of violence against women. That, however, has not been the case.

An activist organization called "Women Against Pornography" has challenged city councils around the country to pass anti-pornography ordinances as a way of protecting the civil rights of women. In Minneapolis, Andrea Dworkin, author of Pornography: Man Possessing Woman and Catherine MacKinnon, both professors at the University of Minnesota, presented a paper before the Minneapolis City Council that expressed their ideological arguments. In short, it said, "Pornography hurts women openly and gives it social legitimacy. . . . Pornography promotes pain, humiliation, and inferiority as experiences that are sexually pleasing to all women." The Council passed an anti-pornography ordinance on December 30, 1983, but Mayor

Donald Fraser vetoed it. In Indianapolis, they were successful in getting council and public support to pass a law in June, 1984. In November, 1984, however, the law was declared unconstitutional by federal appeals court Judge Sarah Evans Barker on the grounds that the ordinance sought to regulate expression, that is, to regulate speech protected by the First Amendment. In her ruling, Judge Barker addressed the question, "Is sex discrimination a compelling state interest justifying an exception to First Amendment protections?" Her reply was a warning of the consequences of a positive view to the question:

> "It is significant to note that the premise of the Ordinance is the sociological harm, the discrimination, which results from 'pornography' to degrade women as a class. . . . The Ordinance seeks to protect adult women, as a group, from the diminution of their legal and sociological status as women. . . . This is a novel theory advanced by the defendants. . . . If this court were to accept defendants' argument. One wonders what would prevent the City-County Council (or any other legislative body) from enacting protections for other equally compelling claims against exploitation and discrimination as are presented here. . . . it would signal so great a potential encroachment upon First Amendment freedoms that the precious liberties reposed within those guarantees would not survive." (Carbone, 1986)

Indianapolis Mayor William H. Hudnut, on behalf of the City-County Council appealed the decision to the U. S. Supreme Court where it was upheld in February, 1986.

Feminists who oppose pornography because women are depicted as victims of violence have formed an alliance with the Religious Right who oppose pornography because it contains images of nudity and sexuality. Pat Robertson, head of the Christian Broadcasting Network and probable candidate for the Republican Presidential nomination in 1988, and Jerry Falwell, leader of the Moral Majority, have been active in a moral campaign against pornography. Falwell targeted the 8500-store 7-11 chain owned by the Southland Corporation for anti-pornography rallies until, in April, 1986, they finally succumbed to pressure from him and the Meese Commission by removing adult magazines such as Hustler and Playboy from the stores.

Those who support pornography, in addition to the business people who profit from it, are psychologists, sex therapists, and Planned Parenthood groups who use it for research and therapy, those who enjoy watching it, and those who defend the right of pornographers to practice their trade under Constitutional protection.

A group of feminists have formed the Feminist Anti-Censorship Task Force (FACT) which questions (1) that pornography causes violence against women, and (2) that a feminist alliance with the Right Wing is good for feminism. They also think that ordinances such as the one passed in Indianapolis are the equivalent of censorship because "the prospect of having to defend a potentially infinite number of privately filed complaints creates as much chilling effect against pornographic or sexual speech as does a criminal law.

. . .The distinction between this ordinance and "real" censorship will not hold." (Duggan, Hunter, and Vance, 1986).

NOW President Eleanor Smeal says that although the influence of violent pornography can be seen first hand in work with rape victims and battered wives, "We don't want to suppress sexually explicit material that is not harmful or violent." (Time, 1986, 21 July)

A third feminist view has been expressed by Betty Friedan: "As repulsive as pornography can be, the obsession with it is a dangerous diversion for the women's movement." (Time, 1986, 21 July) Even though repelled by pornography, many feminists think it is harmless. None of these groups appear to support violent pornography, but most of them do not believe that even violent pornography influences behavior.

Pornography and Research

Does pornography influence behavior? Do scenes of sexual aggression against women cause viewers to become aggressive? Do depictions of rape cause men to become rapists? The literature on pornography and its effects usually distinguishes between erotica and pornography. While both contain sexually explicit material that is likely to be sexually arousing, erotica describes more egalitarian sexual relations between and among consenting participants and is considered to be more romantic. Pornography, on the other hand, tends to be used in a pejoritive way, signifying overt or covert coercion in power-imbalanced relations, usually with male-dominance. The research that I reviewed has been summarized in the following six generalizations:

(1) Observed sexual stimuli of an erotic nature may elicit primarily sexual reactions but do not heighten aggression. Effects tend to be long-term. Albert Bandura (1986), who has done extensive research on modeling and behavior, says that sexual modeling through erotica can teach amorous techniques, reduce sexual inhibitions, alter sexual attitudes, and shape sexual practices in a society by conveying norms about what sexual behaviors are permissible and which exceed socially-acceptable bounds. Studies using erotic films (Brown, Amoroso, & Ware, 1976; Mann, Sidman, & Starr, 1971; Schmidt, 1975; and Schmidt & Sigusch, 1970) found that after seeing couples engage in sexual activities, subjects activated established modes of sexuality. Bandura (1986) says, "Among married couples and sexually experienced persons with available partners, viewing erotic modeling increases sexual intercourse shortly thereafter." (pp. 293-294) He adds that sexual modeling has long-term effects when used for therapeutic purposes with persons suffering from sexual anxieties and dysfunctions.

The same erotica that prompts sexual relations with available partners, Bandura (1986) says, acts as a stimulant for masturbation for sex offenders and avid consumers of erotica. He adds that the effects of sexually explicit content depend upon what form of sensuality is modeled--tender, bizarre, coercive, or abusive.

(2) Observed sexual aggression may evoke aggression-facilitating responses. Whereas positive sexual modeling in erotica serves as a source of arousal and generalized disinhibition, negative sexual modeling in

pornography can heighten aggressiveness where such actions are considered acceptable. Findings by Baron (1977), Malmuth, Feshbach, & Jaffe, (1977), and Ramirez, Bryant, & Zillman, (1982) demonstrated that positive erotica did not affect or reduce aggression, but that negative pornography increased aggressiveness, especially in irritated viewers. Different forms of pornography tend to foster different levels of aggression even though they are equally sexually arousing, but, more importantly, it has been found that aggression remains heightened even after sexual arousal dissipates (Donnerstein, 1980; Malamuth, Feshbach, & Jaffe, 1977). When exposed to aggressive pornography, males were stimulated to have fantasies of rape. (Malamuth, 1981; Malumuth & Check, 1983)

(3) <u>When erotica and pornography both have unpleasant or extravagant content, they are equal in their enhancement of aggression in subjects.</u>

Studies (Zillman, Bryant, & Carveth, 1981) compared nonaggressive erotica (bestiality) to aggressive pornography (sadomasochism) and found that they both enhanced aggression in subjects to the same degree. The researchers ascribed the detrimental effects to the combined effects of subject arousal and the unpleasantness of the content rather than to the display of aggression alone.

(4) <u>The effects of modeled sexual assaults are strongly influenced by how the victims' reactions are portrayed.</u> Showing women experiencing orgasmic pleasure while being raped stimulates greater punitiveness (male subjects administered electric shocks to female partners) than when they are depicted

expressing pain and abhorrence (Donnerstein & Berkowitz, 1981; Donnerstein, 1983). Depictions of traumatic rape foster less arousal in subjects than depiction of rape as pleasurable. Sexual violence, however, promotes greater punitiveness toward women than does nonsexual violence. Bandura (1986) explains this, "Because violent erotica fosters devaluation and punitiveness, it may well serve as a stimulant for sexual assaults by males who are sexually aroused by modeled violence toward women." (p. 296) Elements that dehumanize women, blame rape on women's sexual enticement, turn it into orgasmic euphoria, and sanction expression of masculinity and power through sexual domination weaken the operation of internal controls in subjects (Griffin, 1971).

(5) Massive exposure to pornography alters sexual standards and attitudes toward women, but it also produces a decrease in aggression. Zillman and Bryant (1984) found that massively exposed viewers regard hard-core pornography as less offensive and more enjoyable. Exposure to pornography over time promotes acceptance of it, but at the same time, produces a decrease in motivation to be aggressive (O'Donahue and Geer, 1985). This is probably due to a decrease in arousal due to habituation.

Massive exposure appears to produce calloused attitudes toward women and also appears to cause men to see rape as trivial. Furthermore, subjects perceived uncommon sexual practices as more prevalent than they really are; their attitudes toward rape offenses were more lenient; and they devaluated issues of important to women. Zillman and Bryant (1984) speculate that this effect comes from the portrayal of women in pornography as socially nondiscriminating, as

hysterically euphoric in response to any sexual stimulation, and as eager to accommodate any and every sexual request.

Pornography does create a world of polygynous fantasy, in which there are always sufficient and consenting females who unhesitatingly display their naked bodies and who are ready for immediate sexual experience.

(6) Individual predispositions are a major factor in determining the effects of pornography on individuals. Research indicates that certain types of people are predisposed to be aggressive and tend to exhibit aggressive tendencies in laboratory settings. Mosher and Anderson (1986) found that men with "macho" personalities were more likely to prefer guided imagery fantasies of realistic rape depictions. Using the Hypermasculinity Inventory and Aggressive Sexual Behavior Inventory, Mosher and Anderson identified male subjects by three components: (1) calloused sexual attitudes, (2) beliefs that violence is manly, and (3) perceptions of danger as exciting. The subjects listened to a twelve-minute tape depicting a rape with a frightened victim. Men who were high in the "macho" scale expressed higher arousal levels. Mosher and Anderson said, "The socialization of the macho male, if it does not produce a rapist, appears to produce calloused sex attitudes toward women and rape and proclivities toward forceful and exploitative tactics to gain sexual access to women."(p. 91)

Malamuth and Check (1983) reported that a measure of power motivation in sex was related to self-reports of likelihood of raping and sexual arousal in response to rape depictions.

Malamuth, Check, and Briere (1986) identified males as "force" and "non-force." Men who were high in the force category reported a

relatively high level of arousal from observing force. Men who were in the low force category found aggression in pornographic films inhibited arousal. Malamuth, Check, and Briere also found that high force males were more accepting of an ideology that justifies male aggression against and dominance over women. These same men also experienced arousal from aggression in nonsexual situations.

Malamuth and Donnerstein (1984) found that men who were angered increased punishment of their female partners in an experiment more than men who were not angry after having seen violent pornography and violence-only films. They felt that the critical factor seemed to be the association of women with violence or victimization, thereby enhancing the aggressive cue value of the female partner to whom shocks could be administered.

Bryant and Zillman (1985) found that men who reported fantasies that were about aggression together with sex were more interested in viewing filmed rape scenes than men whose fantasies were solely aggressive or solely sexual.

Donnerstein and Berkowitz (1983) noted, "All in all, our findings point to the multiplicity of processes that can determine the audience's reactions to events in the mass media. Arousal level, lowered inhibitions, and viewers' interpretations, as well, all play some part." (p. 253)

There have also been studies involving convicted rapists and real rape victims. Rapists have been found to show high sexual arousal to depictions of rape and some arousal to nonsexual aggression. Sadistic rapists, who enjoy torturing their victims, are highly aroused by nonsexual aggression and by rape, but they are not aroused by mutually enjoyable sex depicted in erotica

(Avert-Clark & Laws, 1984). Arousal patterns thus provide a measure not only of the proclivity to rape but even the form (not sadistic/sadistic) it is likely to take. High sexual arousal to nonsexual violence identifies sadists. By variation in the age of the persons and the degree of violence in the depictions, the arousal patterns can identify the rapist whose victims are most likely to be children or elderly women amd whether sex or aggression is the source of sexual arousal.

Silbert and Pines (1984) found a relationship between rape and pornography when they interviewed street prostitutes. Of 193 cases of reported rape of these women, 24% contained references to rapists talking about pornographic films during the rapes. Some of the women said their assailants named the films they had seen.

Malamuth (1986) found multiple factors in male subjects with tendencies to be sexually aggressive. They were sexual arousal in response to aggression, dominance as a motive for sexual acts, hostility toward women, attitudes of acceptance of violence toward women, psychoticism, and sexual experience. The presence of any one of these factors alone does not predict sexual aggressiveness; however, the factors taken together can predict (statistically) the tendency to be sexually aggressive.

What kind of conclusions, if any, can we draw from these studies? Causal inferences remain ambiguous. Research is inconclusive regarding a link between watching pornography and committing aggressive sexual acts. It is possible that for some people with certain predispositions, watching violent sexual events on film may enhance tendencies toward rape. On the other hand, it is quite possible that individuals with tendencies toward sexual

violence may be more attracted to media depictions of rape. Social science research has not been designed to evaluate the relationship between exposure to pornography and sexual crimes. The aggression that was demonstrated in laboratory settings took the form of administering electric shocks to female partners or of reporting on paper-pencil tests what their aggressive tendencies were. Attitudes toward women were measured, but attitudes are not necessarily predictors of behavior (O'Donnell & Kable, 1982). Furthermore, there is no evidence that these negative attitudes would be sustained over time. The researchers whose work has been summarized in this paper highly recommend that future research involve longitudinal, repeat-exposure conditions. Sex offenders who were studied do possess attitudes consistent with deviant practices ("Women enjoy rape" or "Women ask for it by dressing the way they do."). In fact, their deviant behaviors probably have produced the attitudes they have as a means of giving them psychological consistency.

The 1986 Attorney General's Commission on Pornography reports that repeated exposure to sexually violent pornography bears a causal relationship to acts of sexual violence and other antisocial acts, and that erotica which portrays women as objects of sexual desire is also harmful. (U. S. Department of Justice, 1986). The Meese Commission Report teases the current data into "proof" of a causal link, and this is unacceptable. The Commission's other major source of information came from anecdotal "research." Sex offenders and victims were questioned regarding their experiences with pornography. Their testimony ("Pornography made

me [him] do it.") has to be interpreted with care because it is probably self-serving.

Pornography and Constitutional Protection

James Dobson, one of the commissioners for the 1986 Commission on Pornography, said they accepted the Miller standard to determine what was acceptable and what was unacceptable. This refers to a 1973 Supreme Court decision in the case of Miller v. California. It was ruled by a 5-4 decision that a work is obscene based on the standard of whether the "average person, applying contemporary community standards would find the material, taken as a whole, appeals to prurient interest, whether the material depicts or describes, in a patently offensive way, sexual conduct specifically defined by applicable state law, and whether the material, taken as a whole, lacks serious literary, artistic, political, or scientific value." The intended consequence of this decision, according to Feinberg (in Copp & Wendell, 1983), was to permit more aggressive prosecutions of pornographers. Chief Justice Warren Burger and his conservative colleagues "clearly wished to tighten legal controls on obscenity." (Feinberg in Copp & Wendell, 1983) Using local community norms rather than a national standard for interpreting the "prurient interest" test permits local courts to find people guilty for distributing materials that would not be judged obscene in more sophisticated communities.

By substituting local community standards, the Court made it difficult for publishers to know where their materials would be found obscene. In 1976, for example, Larry C. Flynt mailed Hustler to someone in a town in Ohio. He was subsequently tried for distributing obscene materials and was sentenced to 7-25 years in

prison. Miller appears to limit constitutional protection to literary novels and films, serious political commentaries, and correct scientific reports. Feinberg says if future courts take Burger's words seriously, they shall have to strip protection from most novels that deal with sexual themes, since assuredly most of them, like many novels, lack 'serious literary' value." (Copp & Wendell, 1983, p. 131.)

Justice William O. Douglas, in a dissenting opinion on Miller, said that the First Amendment protected obscenity as free speech. The First Amendment prohibits laws that abridge freedom of speech and press and is unconditional in its admonition. Furthermore, Douglas felt that it does not matter whether a work has literary or other values because there were no historical limitations on the freedoms protected by the Constitution. The Constitutional Protection of free speech is content blind, and protection is stated in absolutist terms. Everyone is protected, but if a select few are denied rights, all speech is at risk. Thomas Jefferson said, "Whose foot is to be the measure to which ours are all to be cut or stretched?"

The Meese Commission, however, claims that pornography is not speech and therefore does not fall under constitutional protection. Opponents of this view claim that as long as what is depicted in the mass media is expressive rather than actual, it is speech. Pornography is representational and symbolic. It can even be said to express opinions. Whether the opinion is anti-female or pro-violence is inconsequential, unless actual harms result from looking at it. If pornography is interpreted as real action rather than expressive speech and if causality between pornography and sex

crimes can be proven, it could be denied constitutional protection. These may well be the crucial issues to determine whether pornography will be censored in the United States.

Conclusions

Technology has increased the availability of pornography and thus has expanded the market for it. Research indicates that heavy consumers of pornography enjoy more aggressive content. It is not clear whether or not there is a causal link between exposure to pornography and subsequent criminal acts of sexual aggression. Certainly, more research needs to be conducted, but it is difficult to project findings from laboratory studies to actual violence. If a link is established between pornography and violence, it will probably vary according to individual predispositions of the offenders. Nearly all research in persuasion verifies that individual predispositions are determinants in behavioral acts that may result from persuasion (O'Donnell & Kable, 1982).

The First Amendment protects expression regardless of content, yet the Miller standard has assisted local communities in applying enforcement of morality among its citizens. The question is: How can statutes that forbid and punish pornography be reconciled with the First Amendment's guarantees of free speech and free press? The offensiveness of the prohibited materials reside in spoken or printed words, pictures, and films.

BIBLIOGRAPHY

Avery-Clark, C. A. & Laws, D. R. (1984). Differential erection response patterns of sexual child abusers to stimuli describing activities with children. Behavior Therapy, 15, 71-83.

Bandura, A. (1986). Social Foundations of Thought and Action: A Social Cognitive Theory. Englewood Cliffs, N. J.: Prentice-Hall.

Baron, R. A. (1977). Human Aggression. New York: Plenum.

Brown, J. D. (1986, Winter). Sex in the media. Planned Parenthood Review, pp. 4-7.

Brown, M., Amoroso, D. M., & Ware, E. E. (1976). Behavioral effects of viewing pornography. Journal of Social Psychology, 98, 235-245.

Burstyn, V. (Ed.). (1985). Women Against Censorship. Douglas & McIntrye.

Carbone, R. E. (1986, May). The decision of Judge Sarah Evans Barker on the Indianapolis pornography ordinances. Paper presented at the conference on Rhetoric Society of America, Arlington, Texas.

Charles, B. (1985, October). The Pornography Explosion. Ladies Home Journal, pp. 104-164.

Commission on Obscenity and Pornography. (1970). The Report of the Commission on Obscenity and Pornography. Washington, D.C.: U.S. Government Printing Office.

Cook, T. D., Kendzierski, D. A., & Thomas, S. V. (1985). The Implicit Assumptions of Television Research: An Analysis of the 1982 NIMH Report on Television and Behavior. In Gurevitch, M. & Levy, M. R. (Eds.). Mass communication yearbook (Vol. 5, pp. 143-183).

Copp, D. & Wendell, S. (Eds.). (1983). Pornography and censorship. Buffalo: Prometheus.

Dietz, P. E., Harry, B., & Hazelwood, R. R. Detective magazines: Pornography for the sexual sadist? Journal of Forensic Sciences, 31 (1), 197-211.

Donnerstein, E. (1980). Aggressive erotica and violence against women. Journal of Personality and Social Psychology, 39, 269-277.

Donnerstein, E. (1983). Erotica and human aggression. In R. Geen & E. Donnerstein (Eds.) Aggression: Theoretical and empirical reviews (Vol. 2, pp. 127-154). New York: Academic Press.

Donnerstein, E., & Berkowitz, L. (1981). Victim reactions in aggressive erotic films as a factor in violence against women. Journal of Personality and Social Psychology, 41, 710-724.

Freund, K. Scher, H., Racansky, I. G., Campbell, K., & Heasman, G. (1986). Males disposed to commit rape. Archives of Sexual Behavior, 15, (1), 23-35.

Ginzberg v. United States, 383 U. S. 463 (1966).

Griffin, S. (1971, September). Rape: The all-American crime. Ramparts, pp. 26-35.

Haney, R. D. (1977). Obscenity and pornography: Legal arguments and empirical evidence. Free Speech Yearbook, 16, pp. 46-59.

Herbeck, Dale A. (1984). The Regulation of Pornography in the New Media. Free Speech Yearbook, 23, pp. 92-108.

Jacobellis v. Ohio, 378 U. S. 184 (1966).

Jowett, G. (1976). Film: The democratic art. Boston: Little, Brown.

Kant, H. S. (1971). Exposure to pornography and sexual behavior in deviant and normal groups. Corrective Psychiatry and Journal of Social Therapy, 17, 5-17.

Kingsley International Pictures Corporation v. Regents of the University of the State of New York, 384 U. S. 684 (1959).

Lederer, L. (Ed.) (1982). Take back the night. New York: Bantam.

Malamuth, N. M. (1981). Rape fantasies as a function of exposure to violent sexual stimuli. Archives of Sexual Behavior, 10, 33-47.

Malamuth, N. M. (1986) Predictors of naturalistic sexual aggression. Journal of Personality and Social Psychology, 50, 953-962.

Malamuth, N. M., & Check, J. V. P. (1984). Debriefing effectiveness following exposure to pornographic rape depictions. The Journal of Sex Research, 20, 1-13.

Malamuth, N. M., Check, J. V. P., & Briere, J. (1986). Sexual arousal in response to aggression: Ideological, aggressive, and sexual correlates. Journal of Personality and Social Psychology, 50, 330-340.

Malamuth, N. M. & Donnerstein, E. (Eds.) (1984). Pornography and sexual aggression. New York: Academic Press.

Malamuth, N. M., Feshbach, S. & Jaffe, Y. (1977). Sexual arousal and aggression: Recent experiments and theoretical issues. The Journal of Social Issues, 33, 110-133.

Mann, J., Sidman, J., & Starr, S. (1971). Effects of erotic films on the sexual behavior of married couples. In Technical report of the commission on obscenity and pornography Vol. VIII. Erotica and social behavior (pp. 170-254). Washington, DC: U.S. Government Printing Office.

Miller v. California, 413 U. S. 15 (1973).

Mosher, D. L. & Anderson, R. D. (1986). Macho personality, sexual aggression, and reactions to guided imagery of realistic rape. Journal of Research in Personality, 20, 77-94.

O'Donnell, V. & Kahle, J. (1982) Persuasion: An Interactive Dependency Approach. New York: Random House.

O'Donohue, W. T., & Geer, J. H. (1985). The habituation of sexual arousal. Archives of Sexual Behavior, 14, 233-246.

Palys, T.S. (1986). The social content of video pornography. Canadian Psychology, 27 (1), 22-35.

Pornography: A poll. (1986, July 21). Time, p. 22.

Ramirez, J., Bryant, J., & Zillman, D. (1982). Effects of erotica on retaliatory behavior as a function of level of prior provocation. Journal of Personality and Social Psychology, 43, 971-978.

Rogers, R. S. (1978). The jurisprudence of censorship: Philosophical bases of anti-pornography arguments. Free Speech Yearbook, 17 (1978), pp. 82-91.

Schmidt, G. (1975). Male-female differences in sexual arousal and behavior during and after exposure to sexually explicit stimuli. Archives of Sexual Behavior, 4, 353-365.

Schmidt, G., & Sigusch, V. (1970). Sex differences in responses to psychosexual stimulation by films and slides. Journal of Sex Research, 6, 268-283.

Sex busters. (1986, July 21). Time, pp. 12-21.

Shepher, J., & Reisman, J. (1985). Pornography: A sociobioligical attempt at understanding. Ethology and Sociobiology, 6, 103-114.

Silbert, M. H. & Pines, A. M. (1984). Pornography and sexual abuse of women. Sex Roles, 10, 857-868.

Tedford, T. L. (1985) Freedom of Speech in the United States. New York: Random House.

U.S. Department of Justice, (1986). Attorney General's Commission on Pornography: Final Report. 2 vols. (Publication No. 0-158-315). Washington, D.C.: U. S. Government Printing Office.

Weiss, P. (1986, March) Forbidden pleasures: A taste for porn in a city of women. Harper's, pp. 68-72.

Yaffe, M. & Nelson, E. C. (Eds.). (1982). The influence of pornography on behaviour. London: Academic Press.

Zillman, D. & Bryant, J. (1984). Effects of massive exposure to pornography. In N. M. Malamuth & E. Donnerstein (Eds.), Pornography and sexual aggression (pp. 115-138). New York: Academic Press.

Zillman, D., Bryant, J., & Carveth, R. A. (1981). The effect of erotica featuring sadomasochism and bestiality on motivated intermale aggression. Personality and Social Psychology Bulletin, 7, 153-159.

Zillman, D., Bryant, J. (1985). Selective exposure to communication. Hillsdale, NJ: Lawrence Erlbaum.